

Index of Open Records Opinions - by Subject

ABUSE AND NEGLECT

N.D.A.G. 2003-O-10	September 4, 2003, to Tri-County Intervention, Inc. Records of domestic and sexual assault confidential.
N.D.A.G. 94-F-21	July 28, 1994, to Henry Wessman Privileged medical records may be reviewed.
N.D.A.G. 94-F-12.	April 5, 1994, to Henry Wessman Information on institutional abuse.
N.D.A.G. 94-F-03	January 27, 1994, to Henry Wessman Disclosure of abuse and neglect records to federal officials.
N.D.A.G. Letter	December 19, 1991, to Lloyd Omdahl Exchange of abuse and neglect information between Department and county social service boards.
N.D.A.G. Letter	November 4, 1991, to Wayne Sanstead Counseling session with student.
N.D.A.G. 88-04	February 8, 1988, to Alan Duppler Waiver of confidentiality by the subject of an abuse report.
N.D.A.G. 84-31	August 17, 1984, to Tom Slorby Providing abuse reports to defense counsel.
N.D.A.G. 84-05	January 19, 1984, to James Twomey Privileged medical records may be reviewed.

AGRICULTURE

N.D.A.G. 2008-L-20	December 22, 2008, to Agriculture Commissioner When a confidential record is required for the enforcement of the Pesticide Act it is no longer confidential.
N.D.A.G. 98-L-77	June 17, 1998, to Douglas Johansen Field inspection applications and reports.
N.D.A.G. 95-L-243	October 23, 1995, to Robert Peterson Legal and tax assistance program records of the Credit Review Board and the Agriculture Commissioner.
N.D.A.G. 78-154	May 4, 1978, to Myron Just Potato council records.

ATTORNEY WORK PRODUCT

[N.D.A.G. 2010-O-08](#)

June 24, 2010, to Risk Management Division, Office of Management and Budget

In order for requested billing records to be considered "attorney work product," all three elements must exist under statute. Billing records of a pending claim against the state are exempt from open records law but may be released at discretion of public entity. Reasonable for entity to redact portions of billing statements that reveal attorney's thought process for trial strategy and legal theories.

[N.D.A.G. 2007-O-07](#)

April 24, 2007, to Coolin Township

Records held by a private attorney working for a public entity are subject to the open records laws.

[N.D.A.G. 2003-O-17](#)

October 31, 2003, to City of Grand Forks

Attorney work product available for disclosure after litigation and administrative proceedings are complete.

[N.D.A.G. 2002-O-05](#)

April 1, 2002, to Fred Strege

Types of records protected.

[N.D.A.G. 2002-O-01](#)

January 10, 2002, to Wade Enget

Exemption is waived if shared with adversary.

[N.D.A.G. 92-04](#)

January 17, 1992, to Helen Tracy

Record prepared in anticipation of an adversarial administrative proceeding.

AUDITOR, STATE

[N.D.A.G. 95-L-01](#)

January 17, 1995, to Robert Peterson

Attorney billings to Protection and Advocacy Project.

[N.D.A.G. 94-L-305](#)

November 3, 1994, to Gordy Smith

Access to records of Protection and Advocacy Project for audit purposes.

CITIES

[N.D.A.G. 2005-O-16](#)

October 6, 2005, to Mayor of City of Oakes

Records given to council members by the mayor at a meeting.

[N.D.A.G. 2005-O-01](#)

January 10, 2005, to City of Napoleon

Arrangement to review city ordinances.

[N.D.A.G. 2004-O-20](#)

September 7, 2004, to City of Napoleon

Access to city ordinances.

[N.D.A.G. 2003-O-17](#)

October 31, 2004, to City of Grand Forks

Release of attorney work product.

[N.D.A.G. 2003-O-04](#)

February 25, 2003, to City of Fargo

E-mails of city commissioners and the mayor.

[N.D.A.G. 2002-O-09](#)

September 17, 2002, to Van de Streek, Boughey, and Lee

City funds to reimburse Minot Area Chamber of Commerce Task Force.

[N.D.A.G. 2002-L-41](#)

July 12, 2002, to John Warcup

Real property appraisal.

N.D.A.G. 95-L-174	July 24, 1995, to Robin Thompson Gordon Client files of city attorney.
N.D.A.G. 94-L-103	April 14, 1994, to Wayne Hokenson Home improvement loan records and city checkbook (but see N.D.A.G. 2000-L-107 June 28 to Lisa Gibbens).
N.D.A.G. 90-32	December 31, 1990, to Wayne Solberg Field notes of city assessor.
N.D.A.G. Letter	January 10, 1973, to Hugh McCutcheon Work papers of city assessor (<u>but see</u> N.D.A.G. 90-32 December 31 to Wayne Solberg).

COMMERCIAL INFORMATION – SEE TRADE SECRETS

COMPUTER RECORDS

N.D.A.G. 2013-O-18	November 22, 2013, to North Dakota University Systems It is not a violation of the open records law to use the search method available on the public entity's computer system. Employees of a public entity would not know how to access "Recoverable Items" folder without the extensive use of IT resources for which a charge may be assessed pursuant to N.D.C.C. § 44-04-18(3).
N.D.A.G. 2011-O-12	August 30, 2011, to North Dakota State University Excising computer records.
N.D.A.G. 2008-O-29	December 12, 2008, to North Dakota High School Activities Association Availability of a record on a website doesn't nullify right of public to receive copy.
N.D.A.G. 2008-O-17	July 15, 2008, to Adams County If public records are maintained in a database, there must be some meaningful way to access those records and make electronic copies.
N.D.A.G. 2008-O-15	July 1, 2008, to Fargo Public School District and Fargo Park District Records maintained on a private, home computer by an agent of a public entity relating to public business are subject to open records law.
N.D.A.G. 2005-O-05	March 30, 2005, to North Dakota State University Request for records in electronic format.
N.D.A.G. 2003-O-09	August 27, 2003, to North Dakota Game & Fish Department Clarification reasonable for complicated request for electronic records.
N.D.A.G. 2003-O-04	February 25, 2003, to City of Fargo E-mails of city commissioners and the mayor.
N.D.A.G. 98-O-22	October 16, 1998, to Roger Gress and Timothy Davies Excising computer records.
N.D.A.G. Letter	September 10, 1992, to Helen Tracy Raw data in a computer database is a record.
N.D.A.G. Letter	October 8, 1991, to Charlie Whitman Lack of authority to charge for access to open records applies to computer records.

CORRECTIONS – SEE INMATE RECORDS

COUNTIES

<u>N.D.A.G. 2004-O-23</u>	October 27, 2004, to Stark County Marriage licenses in county recorder's office are open records.
<u>N.D.A.G. 2004-O-05</u>	February 17, 2004 to Grand Forks County Planning & Zoning Department Records prepared by part-time county employee.
<u>N.D.A.G. 2002-L-39</u>	July 12, 2002, to Linda Hickman Wills deposited with county recorder.
<u>N.D.A.G. 95-L-88</u>	April 3, 1995, to James Odegard Records of medical county coroner.
<u>N.D.A.G. 94-L-90</u>	April 4, 1994, to Jim Yockim Settlement agreement with city official.
<u>N.D.A.G. 94-L-52</u>	March 7, 1994, to Ronald McBeth Confidential records remain "public" records.
<u>N.D.A.G. Letter</u>	July 11, 1985, to Richard Wilkes Noxious weed investigative reports.
<u>N.D.A.G. 82-02</u>	January 20, 1982, to Herbert Engberg Reasonable office hours and fee for after-hours access can be set by the county.
<u>N.D.A.G. 79-195</u>	July 16, 1979, to James Purdy Microfilming of county records by abstract company.
<u>N.D.A.G. 78-124</u>	September 7, 1978, to Ronald Splitt Sale of joint interest in microfilm records is not authorized.
<u>N.D.A.G. 71-83</u>	December 3, 1971, to Vincent LaQua Transcript of coroner's inquest is open.
<u>N.D.A.G. 66-49</u>	August 22, 1966, to Eugene Kruger County officers who have possession of records and need office space.
<u>N.D.A.G. 65-75</u>	January 15, 1965, to John Alphson County welfare board possesses public records and must be provided a suitable building at the county seat.
<u>N.D.A.G. 51-37</u>	June 14, 1951 Microfilming of county records.

COURTS

<u>N.D.A.G. 2003-O-06</u>	April 25, 2003, to Disciplinary Board of the ND Supreme Court Records of Disciplinary Board and Judicial Conduct Commission are court records not subject to open records law.
<u>N.D.A.G. 2002-L-19</u>	April 1, 2002, to Kenneth Dalstad Jurisdiction of juvenile court.
<u>N.D.A.G. 2000-F-09</u>	February 28, 2000, to Frank Wald Definition of "juvenile court".

<u>N.D.A.G. 99-L-71</u>	August 6, 1999, to Wayne Stenehjem Clerks and criminal history records.
<u>N.D.A.G. 95-L-148</u>	June 21, 1995, to Larry Quast Courts have discretion over access to judicial records.
<u>N.D.A.G. 94-F-18</u>	July 1, 1994, to Jeff Roterling Release of child support records by clerk of court.
<u>N.D.A.G. Letter</u>	September 15, 1992, to Ronald McBeth Release of court records regarding child support.
<u>N.D.A.G. 90-01</u>	January 4, 1990, to Tom Slorby Authority of school principal to review juvenile files.
<u>N.D.A.G. Letter</u>	November 17, 1987, to William Bohn Court criminal history records.
<u>N.D.A.G. Letter</u>	April 15, 1985, to Gail Hagerty Access to conviction records.
<u>N.D.A.G. Letter</u>	December 27, 1984, Robert Manly Access to probate records.
<u>N.D.A.G. 81-112</u>	October 16, 1981, to John Van Grinsven III Adoption records.
<u>N.D.A.G. 75-27</u>	November 18, 1975, to Myron Atkinson, Jr. County probate records.
<u>N.D.A.G. 67-175</u>	November 20, 1967, to John Alphson Records of the psychiatric examinations of criminal defendants.
<u>N.D.A.G. 49-149</u>	May 27, 1949 Dockets of a justice of the peace.

CRIMINAL HISTORY RECORDS – SEE LAW ENFORCEMENT

DENIAL OF RECORDS

<u>N.D.A.G. 2013-O-08</u>	May 24, 2013, to North Dakota State University Must provide requestor with analysis and correct legal reasoning for withholding entire records under FERPA.
<u>N.D.A.G. 2011-O-11</u>	August 24, 2011, to North Dakota Department of Human Services Normally, the identity of the requestor and purpose of the request for open records of a public entity are irrelevant because the right to access public records belongs to all persons equally. The law, however, does not allow a party involved in litigation to circumvent the discovery process when seeking records from a public entity.
<u>N.D.A.G. 2011-O-10</u>	August 10, 2011, to Cass County Historical Society Board violated law when did not provide requested e-mails and minutes, without explanation, within a reasonable time.
<u>N.D.A.G. 2011-O-09</u>	June 29, 2011, to Bank of North Dakota Bank of North Dakota is a financial institution that is subject to statutory and federal law that requires it keep the “commercial or financial information of a customer” confidential.

<u>N.D.A.G. 2009-O-08</u>	June 15, 2009, to University of North Dakota Alumni Association and University of North Dakota Foundation Copy of a software contract should have been released to requester.
<u>N.D.A.G. 2008-O-27</u>	December 1, 2008, to University of North Dakota It was a violation of the open records law to inaccurately allege that FERPA prohibited the release of disciplinary records under any circumstance.
<u>N.D.A.G. 2008-O-26</u>	November 12, 2008, to CommunityWorks North Dakota, North Dakota Housing Finance Agency Because CommunityWorks is not subject to the open records law, it did not violate the law by denying records. The ND Housing Finance Agency did not violate the law by refusing to provide records that are confidential by statute.
<u>N.D.A.G. 2008-O-19</u>	July 15, 2008, to Foster County The fact that the requester was not a licensed attorney and from an out of state business is not grounds to deny or delay providing records that are open to the public.
<u>N.D.A.G. 2008-O-17</u>	July 15, 2008, to Adams County A request for copies of records maintained in a database is not a request to create or compile records that do not exist.
<u>N.D.A.G. 2008-O-12</u>	June 23, 2008, to Round Prairie Township Even though a requester has access to requested minutes at a meeting, he is nonetheless entitled to copies of the minutes.
<u>N.D.A.G. 2008-O-07</u>	March 20, 2008, to Workforce Safety and Insurance Public entities must thoroughly search for records that are requested.
<u>N.D.A.G. 2008-O-05</u>	February 29, 2008, to Workforce Safety and Insurance Improper legal authority used to deny records.
<u>N.D.A.G. 2008-O-04</u>	February 29, 2008, to Workforce Safety and Insurance Improper legal authority used to deny records.
<u>N.D.A.G. 2008-O-03</u>	February 29, 2008, to Workforce Safety and Insurance Video surveillance security tapes are exempt as part of security system plans.
<u>N.D.A.G. 2007-O-11</u>	August 3, 2007, to City of Mandan A public entity needs to respond to a request for records within a reasonable time, even if the response is that the records do not exist.
<u>N.D.A.G. 2007-O-03</u>	March 1, 2007, to ND Department of Transportation The DOT cannot deny a record because a requestor refuses to complete a form or explain the purpose behind the request.
<u>N.D.A.G. 2007-O-01</u>	February 12, 2007, to ND Department of Transportation Access to an existing database.
<u>N.D.A.G. 2006-O-14</u>	October 4, 2006, to Williston Family Crisis Shelter A public entity must describe the legal authority for denying a requested record.
<u>N.D.A.G. 2006-O-12</u>	July 25, 2006, to Wayne Samdahl, Pembina County Sheriff A public entity must give an accurate reason for denial of a record.
<u>N.D.A.G. 2006-O-09</u>	May 15, 2006, to City of Grand Forks Opinions, thoughts, or mental impressions are not records

<u>N.D.A.G. 2006-O-08</u>	May 4, 2006, to North Dakota Stockmen's Association Active criminal investigative information is exempt from the open records law.
<u>N.D.A.G. 2006-O-04</u>	February 21, 2006, to Bismarck-Mandan Orchestral Association A record cannot be denied merely because it contains confidential information.
<u>N.D.A.G. 2005-O-20</u>	December 5, 2005, to Minto Special Assessment Commission Entity's agent has duty to honor request for copies.
<u>N.D.A.G. 2005-O-16</u>	October 6, 2005, to Mayor of City of Oakes Marking record "confidential" not a basis for denial.
<u>N.D.A.G. 2004-O-11</u>	May 17, 2004, to Halliday Public School District Written denial of records need not have specific legal authority.
<u>N.D.A.G. 2003-O-21</u>	December 1, 2003, to Department of Human Services Entity asked for written request for records.
<u>N.D.A.G. 2003-O-09</u>	August 27, 2003, to North Dakota Game & Fish Department When records are not available in requested format, identify to requestor what formats are available as soon as possible.
<u>N.D.A.G. 2000-O-13</u>	December 14, 2000, to Norbert Sickler Sufficient description of legal basis for denial.
<u>N.D.A.G. 98-O-10</u>	May 7, 1998, to R. James Maxson, et al Denials of nonexistent records must be in writing.
<u>N.D.A.G. 98-O-04</u>	March 3, 1998, to Norbert Sickler and Franklin Appledorn A reasonable delay is not a denial.
<u>N.D.A.G. 98-O-03</u>	February 20, 1998, to Glenn Giese and Lester Brackel Denial must address all requested records which are not disclosed.
<u>N.D.A.G. 97-O-01</u>	November 10, 1997, to Bob Harvey and Patricia Burke A denial need not cite specific statute.

DISCLOSURE OF CLOSED OR CONFIDENTIAL RECORDS

<u>N.D.A.G. 2012-O-09</u>	December 4, 2012, to North Dakota State University Incident reports filed with Risk Management of OMB are exempt records under N.D.C.C. § 32-12.2-11. Handwritten notes filed with and attached to the report that describe the specific incident are also exempt. Under this statute, the public entity submitting the report does not have discretion to disclose the exempt record without the authorization of Risk Management.
<u>N.D.A.G. 2009-O-08</u>	June 15, 2009, to University of North Dakota Alumni Association and University of North Dakota Foundation Requested record did not contain exempt donor information.
<u>N.D.A.G. 2008-L-20</u>	December 22, 2008, to Agriculture Commissioner Confidential records cannot be released for "medical necessity" under Pesticide Act.
<u>N.D.A.G. 2008-O-27</u>	December 1, 2008, to University of North Dakota UND failed to consider whether the records of any or all of the students could be released after removing personally identifiable information.

<u>N.D.A.G. 2008-O-20</u>	August 1, 2008, to Workforce Safety and Insurance N.D.C.C. § 65-04-15 only protects safety grant records that would reveal premium or payroll information.
<u>N.D.A.G. 2006-O-04</u>	February 21, 2006, to Bismarck-Mandan Orchestral Association Personnel records of a non-profit entity may be exempt.
<u>N.D.A.G. 2006-O-03</u>	February 14, 2006, to Red River Valley Fair Association Personnel records of public entity.
<u>N.D.A.G. 2005-O-13</u>	August 10, 2005, to Grand Forks Police Department Information in evidence log.
<u>N.D.A.G. 2004-O-23</u>	October 27, 2004, to Stark County Marriage licenses in county recorder's office.
<u>N.D.A.G. 2004-L-25</u>	April 1, 2004, to Senator Ray Holmberg Comprehensive booklist of required textbooks is trade secret.
<u>N.D.A.G. 2004-O-06</u>	March 19, 2004, to Job Service North Dakota Unemployment compensation records kept by job service.
<u>N.D.A.G. 2003-O-11</u>	September 4, 2003, to State Tax Commissioner Names of companies having agreements with North Dakota under the Streamlined Sales Tax Project confidential.
<u>N.D.A.G. 2002-L-55</u>	October 4, 2002, to Aaron Kauter Retirement benefits records in personnel file.
<u>N.D.A.G. 2002-L-39</u>	July 12, 2002, to Linda Hickman Wills deposited with county recorder.
<u>N.D.A.G. 2002-L-06</u>	January 29, 2002, to Mike Mullen Out-of-wedlock births and causes of death released for statistical purposes.
<u>N.D.A.G. 2000-L-48</u>	April 4, 2000, to Warren Emmer Inmate records.
<u>N.D.A.G. 99-L-115</u>	November 18, 1999, to Howard Swanson Rights of member of governing body to closed or confidential records.
<u>N.D.A.G. 99-L-30</u>	April 5, 1999, to Wade Enget 911 records.
<u>N.D.A.G. 98-F-28</u>	November 23, 1998, to Carol Olson Conflicts with statutes restricting further disclosure.
<u>N.D.A.G. 98-L-194</u>	November 23, 1998, to Lyle Gallagher 911 records.
<u>N.D.A.G. 96-L-200</u>	November 7, 1996, to James Anders Transmission of confidential information under the TDD system.
<u>N.D.A.G. Letter</u>	December 19, 1991, to Lloyd Omdahl Exchange of abuse and neglect information between Department and county social service boards.
<u>N.D.A.G. 72-356</u>	May 22, 1972, to Robert Brady Access to accident reports by Unsatisfied Judgment Fund.
<u>N.D.A.G. 62-118</u>	January 12, 1962 Each public official must judge whether records in the official's possession are confidential.

[N.D.A.G. 61-116](#)

December 28, 1961
Governor cannot compel insurance commissioner to divulge confidential communications.

ECONOMIC DEVELOPMENT RECORDS – SEE TRADE SECRETS

EXECUTIVE SESSION, RECORDINGS AND MINUTES

[N.D.A.G. 2004-O-13](#)

June 28, 2004, to Richland Public School District
Disclosure of tape of executive session.

[N.D.A.G. 2004-O-10](#)

May 3, 2004, to Stutsman County Correctional Center
Recording of closed session of a meeting.

[N.D.A.G. 99-L-115](#)

November 18, 1999, to Howard Swanson
Rights of member of governing body to recording of executive session.

[N.D.A.G. 99-O-07](#)

June 29, 1999, to Ed Malazdrewicz
Recording is not an open record.

[N.D.A.G. 98-O-25](#)

November 24, 1998, to Douglas Schauer
Minutes of executive session; duration of closure.

FEEES FOR ACCESS AND COPIES

[N.D.A.G. 2012-O-08](#)

August 2, 2012, to North Dakota State University Research & Technology Park

[N.D.A.G. 2011-O-12](#)

August 30, 2011, to North Dakota State University
While a public entity may charge up to 25 cents a page for a paper copy, there is no charge for a copy provided electronically unless use of information technology resources is necessary. Law allows an hourly fee charge to excise confidential or closed information from e-mails if excising takes longer than one hour.

[N.D.A.G. 2008-O-18](#)

July 15, 2008, to Mountrail County
Generally the wages attributable to the time public employees devote to maintaining and update public records has never been an allowable cost in determining the charges for a copy of a public record.

[N.D.A.G. 2008-O-17](#)

July 15, 2008, to Adams County
A public entity may charge a reasonable fee for providing the copies, including costs attributable to the use of information technology resources.

[N.D.A.G. 2008-O-16](#)

July 9, 2008, to City of Mandan
The first hour spent reviewing records for confidential or exempt information is free.

[N.D.A.G. 2008-O-14](#)

June 24, 2008, to Dickinson State University
All the charges associated with making copies of 213 records were authorized by statute.

[N.D.A.G. 2007-O-01](#)

February 12, 2007, to North Dakota Department of Transportation
Fee for providing access to electronically stored information from an outside location.

<u>N.D.A.G. 2006-O-15</u>	December 18, 2006, to Bismarck Parks and Recreation District After the first hour, a public entity may charge a fee for locating requested records.
<u>N.D.A.G. 2006-O-13</u>	August 14, 2006, to University of North Dakota School of Aerospace Sciences A public entity may charge fees for locating records and excising confidential information, and the actual cost of copies.
<u>N.D.A.G. 2005-O-05</u>	March 30, 2005, to NDSU Estimate of costs not based on legally allowable charges.
<u>N.D.A.G. 2004-O-20</u>	September 7, 2004, to City of Napoleon Fee used to deter requestor.
<u>N.D.A.G. 2004-O-07</u>	April 6, 2004, to Halliday Public School Fee charged not actual cost.
<u>N.D.A.G. 2003-O-09</u>	August 27, 2003, to North Dakota Game & Fish Department Locating charge of \$25 per hour cannot be charged for time formatting data.
<u>N.D.A.G. 2003-O-04</u>	February 25, 2003, to City of Fargo Public entity may charge \$25 per hour after the first hour for locating e-mails
<u>N.D.A.G. 2002-O-06</u>	June 27, 2002, to Fabian Noack Excess fees.
<u>N.D.A.G. 2002-O-04</u>	February 25, 2002, to Cal Rolfson Determining actual cost of copies, including labor.
<u>N.D.A.G. 2000-L-179</u>	December 29, 2000, to Karen Krebsbach Search fee.
<u>N.D.A.G. 2000-O-11</u>	September 1, 2000, to Linda Cooksey Fee for creating new records.
<u>N.D.A.G. 2000-L-94</u>	May 26, 2000, to James Johnson Increased fees for sheriff records.
<u>N.D.A.G. 98-O-22</u>	October 16, 1998, to Roger Gress and Timothy Davies Excess fees.
<u>N.D.A.G. 98-O-04</u>	March 3, 1998, to Norbert Sickler & Franklin Appledorn Excess fees.
<u>N.D.A.G. 98-O-03</u>	February 20, 1998, to Glenn Giese and Lester Brackel No charge for locating records.
<u>N.D.A.G. 96-L-232</u>	December 3, 1996, to J. Thomas Traynor Fee for local copy of accident report (superseding N.D.A.G. 96-L-119 June 5, 1996, to J. Thomas Traynor).
<u>N.D.A.G. 94-F-25</u>	August 5, 1994, to Rodney Feldner Reasonable fee means actual cost to the agency of making the copies.
<u>N.D.A.G. Letter</u>	October 8, 1991, to Charlie Whitman No access charge for computer records.
<u>N.D.A.G. Letter</u>	August 13, 1991, to Howard Swanson Charge for copies but not for access.

<u>N.D.A.G. 89-07</u>	June 23, 1989, to Nancy Jo Bateman Access fees are not permitted.
<u>N.D.A.G. Letter</u>	November 2, 1987, to Richard Olson Reasonable charge for copies of records.
<u>N.D.A.G. Letter</u>	December 19, 1983, to Duane Liffbrig Agency can only recover its cost of providing public records.
<u>N.D.A.G. 82-02</u>	January 20, 1982, to Herbert Engberg Fee for access to records outside regular office hours.

FINANCIAL INFORMATION – SEE TRADE SECRETS

HIGHER EDUCATION

<u>N.D.A.G. 2008-O-27</u>	December 1, 2008, to University of North Dakota Under FERPA, disciplinary records may be released if personally identifiable information is adequately removed.
<u>N.D.A.G. 2005-O-05</u>	March 30, 2005, to NDSU Request for records of professor in electronic format.
<u>N.D.A.G. 2004-L-25</u>	April 1, 2004, to Senator Ray Holmberg Records of privately operated bookstore at UND.
<u>N.D.A.G. Letter</u>	December 10, 1986, William Patrie Privately funded university research projects.
<u>N.D.A.G. 85-03</u>	January 22, 1985, to John Richardson Private investigator's report on a faculty member.

HUMAN SERVICES

See also: ABUSE AND NEGLECT

<u>N.D.A.G. 2003-O-21</u>	December 1, 2003, to Department of Human Services Written request for records not prerequisite to getting the record.
<u>N.D.A.G. 99-L-57</u>	July 6, 1999, to Carol Olson Department is not an "occupational or professional board".
<u>N.D.A.G. 98-L-32.</u>	March 30, 1998, to Carol Olson FBI criminal history information.
<u>N.D.A.G. 95-L-04</u>	January 17, 1995, to Henry Wessman Early child services.
<u>N.D.A.G. 94-L-267</u>	October 7, 1994, to Henry Wessman Investigation by mental health professional under N.D.C.C. § 25-03.1-08.
<u>N.D.A.G. 72-322</u>	February 9, 1972, to Walter Fiedler Records of Grafton State School.
<u>N.D.A.G. 64-239</u>	December 30, 1964, to John Alphson Request from IRS for welfare recipient information.
<u>N.D.A.G. 56-95</u>	April 4, 1956 Inspection by elected public officials.

INMATE RECORDS

N.D.A.G. 2000-O-13	December 14, 2000, to Norbert Sickler Inmate medical records.
N.D.A.G. 2000-L-48	April 4, 2000, to Warren Emmer Disclosure of confidential DOCR records.
N.D.A.G. 2000-F-09	February 28, 2000, to Frank Wald Juvenile and federal inmates.
N.D.A.G. 2000-L-18	February 14, 2000, to Elaine Little DOCR records are generally confidential (see also N.D.A.G. 2000-L-48 April 4, 2000, to Warren Emmer).
N.D.A.G. Letter	April 3, 1992, to Orell Schmitz Protection and Advocacy Project's access to inmate records.
N.D.A.G. Letter	February 12, 1986, to James Marion Notice of application for parole is confidential.

JUVENILE RECORDS – SEE LAW ENFORCEMENT

LAW ENFORCEMENT

N.D.A.G. 2013-O-09	June 12, 2013, to Turtle Lake-Mercer School Board “Background checks,” consist of searching publically available information and are not confidential. Distinguished from a “criminal history record check” which are confidential and are performed by the Bureau of Criminal Investigation and consist of searching confidential law enforcement databases.
N.D.A.G. 2006-O-08	May 4, 2006, to North Dakota Stockmen’s Association An law enforcement authority can withhold active criminal investigative information.
N.D.A.G. 2005-O-13	August 10, 2005, to Grand Forks Police Department Case is active if prosecution is not complete.
N.D.A.G. 2004-O-03	January 20, 2004, to Jamestown Police Department File not active when there was no ongoing investigation.
N.D.A.G. 2002-L-19	April 1, 2002, to Kenneth Dalstad Minors who can be considered juveniles.
N.D.A.G. 2000-L-99	June 13, 2000, to Howard Swanson Distinction between a compilation of a person's criminal history and source documents.
N.D.A.G. 2000-F-09	February 28, 2000, to Frank Wald "Law enforcement" does not include correctional facilities.
N.D.A.G. 2000-L-04	January 18, 2000, to Timothy Priebe Juvenile records must pertain to a child who was alleged or found to be delinquent, unruly, or deprived.
N.D.A.G. 99-L-126	December 9, 1999, to James Odegard Sharing of confidential information within a state's attorney's office.

N.D.A.G. 99-L-71	August 6, 1999, to Wayne Stenehjem Clerks and criminal history records.
N.D.A.G. 98-F-09	April 9, 1998, to Kenneth Dalsted Information obtained under a warrant.
N.D.A.G. 98-L-32	March 30, 1998, to Carol Olson FBI criminal history information.
N.D.A.G. 98-F-02	January 8, 1998, to Calvin Rolfson Access to juvenile records by state licensing boards.
N.D.A.G. 97-O-01	November 10, 1997, to Bob Harvey & Patricia Burke Identity of minor victims and witnesses of traffic offenses.
N.D.A.G. 96-L-232	December 3, 1996, to J. Thomas Traynor Local copy of accident report is open (superseding N.D.A.G. 96-L-119 June 5, 1996, to J. Thomas Traynor).
N.D.A.G. 96-L-119	June 5, 1996, to J. Thomas Traynor Local copy of accident report is not open (superseded by N.D.A.G. 96-L-232 December 3, 1996, to J. Thomas Traynor).
N.D.A.G. 95-L-181	July 31, 1995, to Larry Quast School access to juvenile records.
N.D.A.G. 95-L-74	March 21, 1995, to Wayne Solberg Disclosure of criminal history record information under N.D.C.C. ch. 12-60.
N.D.A.G. 94-L-311	November 10, 1994, to Doug Mattson Charge for requests by social service board for criminal history record information.
N.D.A.G. Letter	September 9, 1992, to Lonnie Olson Videotape of adult arrested for DUI is a record.
N.D.A.G. Letter	June 16, 1992, to Donald Rudnick Arrest information and other criminal records.
N.D.A.G. Letter	June 23, 1989, to Rod Larson Records of a juvenile's death (but see N.D.A.G. 2000-F-09 February 28, 2000, to Frank Wald).
N.D.A.G. 88-04	February 8, 1988, to Alan Dupler Abuse and neglect investigation reports.
N.D.A.G. Letter	November 17, 1987, to William Bohn Court criminal history records.
N.D.A.G. Letter	January 27, 1986, to Stephen McLean Police ticket book.
N.D.A.G. Letter	November 14, 1985, to Robert Alexander Statements of adult victims of criminal activity.
N.D.A.G. 79-201	January 26, 1979, to John Zuger Law enforcement records in general.

MEDICAL RECORDS

N.D.A.G. 2002-L-06	January 29, 2002, to Mike Mullen Vital records information.
N.D.A.G. 2000-O-13	December 14, 2000, to Norbert Sickler Inmate medical records.
N.D.A.G. 94-F-21	July 28, 1994, to Henry Wessman Access to privileged medical information regarding abuse and neglect.
N.D.A.G. 93-L-104	March 22, 1993, to Lyle Gallagher Records on HIV status.
N.D.A.G. 84-05	January 19, 1984, to James Twomey Access to privileged medical information regarding abuse and neglect.
N.D.A.G. 62-152	February 23, 1962, Access to results of blood test by the subject of the test.
N.D.A.G. 45-241	May 8, 1945 Ownership of medical records.
N.D.A.G. 45-240	February 10, 1945 Disclosure of fugitive's medical information to Department of Justice.

MINUTES

N.D.A.G. 2011-O-07	May 26, 2011, to City of Dickinson's Human Relations Commission At time of record request, draft minutes had not been prepared. It was not an unreasonable delay with the minutes were provided the day after the minutes were completed.
N.D.A.G. 2004-O-05	February 17, 2004, to Grand Forks County Planning & Zoning Department Minutes not prepared at time of request.
N.D.A.G. 98-O-25	November 24, 1998, to Douglas Schauer Review of draft minutes.
N.D.A.G. 98-O-15	July 2, 1998, to Kevin Glatt Whether minutes were requested is question of fact.
N.D.A.G. 98-O-11	June 8, 1998, to Duane Mullenberg & Fabian Noack Draft minutes.
N.D.A.G. 98-O-04	March 3, 1998, to Norbert Sickler & Franklin Appledorn Meeting notes and draft minutes.

NONGOVERNMENTAL ORGANIZATIONS

See also: PUBLIC ENTITY

N.D.A.G. 2009-O-08	June 15, 2009, to University of North Dakota Alumni Association and University of North Dakota Foundation. Entities are agents of UND when performing governmental functions set forth in agreement.
------------------------------------	---

<u>N.D.A.G. 2008-O-26</u>	November 12, 2008, to CommunityWorks North Dakota, North Dakota Housing Finance Agency CommunityWorks is not subject to the open records law. The North Dakota Finance Agency is subject to the open records law
<u>N.D.A.G. 2006-O-04</u>	February 21, 2006, to Bismarck-Mandan Orchestral Association A nonprofit supported by or expending public funds is a public entity.
<u>N.D.A.G. 2004-L-25</u>	April 1, 2004, to Sen. Ray Holmberg Barnes & Noble acting as agent of UND in operating bookstore.
<u>N.D.A.G. 2003-O-10</u>	September 4, 2003, to Tri-County Intervention, Inc. Nonprofit receives money for its general support.
<u>N.D.A.G. 2003-O-08</u>	July 22, 2003, to Dakota Center for Independent Living Nonprofit recognized by state law and performing public function.
<u>N.D.A.G. 2003-O-02</u>	February 21, 2003, to James River Senior Citizen's Center Senior citizen's center receiving unrestricted funds used for general support is a public entity.
<u>N.D.A.G. 2003-O-01</u>	January 30, 2003, to Minot School Board Contractor making energy conservation improvements is not a public entity or agent of school district.
<u>N.D.A.G. 2002-O-09</u>	September 17, 2002, to Van de Streek, Boughey, and Lee Minot Area Chamber of Commerce Task Force is supported by public funds and an agent of the city of Minot.
<u>N.D.A.G. 2001-O-11</u>	September 13, 2001, to Greg Selbo Economic development corporation.
<u>N.D.A.G. 2001-O-10</u>	September 7, 2001, to Lamont & Van de Streek Economic development corporation; exception to fair market value of economic development assistance.
<u>N.D.A.G. 2001-O-04</u>	May 16, 2001, to Loral Forsberg Advertising firm under contract with public entity.
<u>N.D.A.G. 99-O-03</u>	April 7, 1999, to Murray Sagsveen Unrestricted funds for general support.
<u>N.D.A.G. 99-O-02</u>	April 5, 1999, to Steve Spilde Government self-insurance pool.
<u>N.D.A.G. 98-O-24</u>	November 23, 1998, to Garrylle Stewart and Vern Bennett Unrestricted funds for general support.
<u>N.D.A.G. 98-F-19</u>	June 10, 1998, to Carol Olson Payments under a "grant" agreement.
<u>N.D.A.G. 96-F-18</u>	September 13, 1996, to Gerald Sveen International Peace Garden.
<u>N.D.A.G. 93-L-95</u>	March 17, 1993, to Jennifer Ring GNDA is supported by public funds.
<u>N.D.A.G. Letter</u>	August 2, 1991, to Ken Solberg Government self-insurance pool

OPEN RECORDS, IN GENERAL

[N.D.A.G. 2014-O-01](#)

January 14, 2014, to Barnes County Municipal Airport Authority
A brief reference to a topic outside the scope of an agenda for a special meeting did not violate open meeting laws because the governing body, in recognizing the potential violation, immediately abandoned the issue and moved on to discuss topics directly related to the posted agenda items.

[N.D.A.G. 2011-O-11](#)

August 24, 2011, to North Dakota Department of Human Services
Requests from adversary to action or proceeding for privileged records; application of discovery rules.

[N.D.A.G. 2010-O-04](#)

April 20, 2010, to North Dakota State University Research & Technology Park
Providing access to records generally does not require approval, supervision, or action by a head of agency.

[N.D.A.G. 2009-O-02](#)

February 20, 2009, to City of Mandan
A public entity cannot ask the name of a person seeking records or employer name as a condition of receiving records.

[N.D.A.G. 2008-O-29](#)

December 12, 2008, to North Dakota High School Activities Association
An entity must provide an e-mail copy of a record if asked, even if the record is available on the entity's website.

[N.D.A.G. 2008-O-19](#)

July 15, 2008, to Foster County
Out of state businesses have the same right of access to records even if the business intends to use the records for profit.

[N.D.A.G. 2007-O-07](#)

April 24, 2007, to Coolin Township
Records in the possession of a private attorney employed by a public entity that related to those duties are subject to the open records law.

[N.D.A.G. 2007-O-06](#)

April 17, 2007, to Burleigh County Commission
An individual requesting public records is not required to take further action after the initial request.

[N.D.A.G. 2007-O-01](#)

February 12, 2007, to North Dakota Department of Transportation
Information contained in a database is an open record.

[N.D.A.G. 2006-O-15](#)

December 18, 2006, to Bismarck Parks and Recreation District
A public entity cannot imply that a form must be completed in order to request records.

[N.D.A.G. 2006-O-04](#)

February 21, 2006, to Bismarck-Mandan Orchestral Association
If an entity's public funds are commingled with other funds, all records are open.

[N.D.A.G. 2005-O-16](#)

October 6, 2005, to Mayor of City of Oakes
Irrelevant that records were only "suggestions".

[N.D.A.G. 2005-O-12](#)

June 28, 2005, to Oakes Park Board
Proof of residency not required to receive record.

[N.D.A.G. 2005-O-11](#)

June 27, 2005, to Grand Forks Historical Preservation Commission
Requested record does not exist.

[N.D.A.G. 2005-O-09](#)

May 27, 2005, to Twin Buttes Public School
Cannot require request for records to be in writing.

<u>N.D.A.G. 2005-O-06</u>	May 11, 2005, to Napoleon Economic Dev. Corp. May not withhold records that are preliminary or tentative.
<u>N.D.A.G. 2004-O-20</u>	September 7, 2004, to City of Napoleon Duty to provide records within reasonable time.
<u>N.D.A.G. 2004-O-05</u>	February 17, 2004, to Grand Forks County Planning & Zoning Department Several factors determine whether response was within reasonable time.
<u>N.D.A.G. 2003-O-21</u>	December 1, 2003, to Department of Human Services Written clarification of request is not a prerequisite to receiving records.
<u>N.D.A.G. 2003-O-19</u>	November 12, 2003, to Northwood Park Board Request for records at a meeting is a valid request.
<u>N.D.A.G. 2003-O-08</u>	July 22, 2003, to Dakota Center for Independent Living Request is overbroad if entity cannot reasonably identify the records.
<u>N.D.A.G. 2003-O-01</u>	January 30, 2003, to Minot Public School Board Document not in the public entity's possession is not a "record".
<u>N.D.A.G. 2002-L-32</u>	June 5, 2002, to Mark Bachmeier Effect of legislative changes making records open that were previously exempt.
<u>N.D.A.G. 2002-O-05</u>	April 1, 2002, to Fred Strege Requests from adversary to action or proceeding for privileged records; application of discovery rules.
<u>N.D.A.G. 2002-L-15</u>	February 28, 2002, to Kermit Lidstrom Distinction between affirmative disclosure and release upon request.
<u>N.D.A.G. 2001-F-10</u>	December 11, 2001, to Eric Hardmeyer Bank of North Dakota customer information.
<u>N.D.A.G. 2001-O-12</u>	September 26, 2001, to Randall Sickler Broad requests for records; effective date of new exceptions.
<u>N.D.A.G. 2001-O-06</u>	June 18, 2001, to Norbert Sickler Definition of "copy".
<u>N.D.A.G. 2000-F-09</u>	February 28, 2000, to Frank Wald Most open records exceptions are specific to each public entity; public entity cannot create open records exception by contract.
<u>N.D.A.G. 99-O-02</u>	April 5, 1999, to Steve Spilde Settlement agreements.
<u>N.D.A.G. 98-O-20</u>	September 15, 1998, to Mike Every and Karen Mitzel Multiple copies not required; no duty to create record.
<u>N.D.A.G. 98-L-73</u>	June 8, 1998, to Jim Heck Records possessed by two entities.
<u>N.D.A.G. 98-F-13</u>	May 12, 1998, to Johanna Zschomler Requests by litigants.
<u>N.D.A.G. 98-O-07</u>	April 24, 1998, to Norbert Sickler Discarding records subject to a pending request.
<u>N.D.A.G. 98-O-03</u>	February 20, 1998, to Glenn Giese and Lester Brackel Requests by telephone.

<u>N.D.A.G. 94-L-194</u>	August 1, 1994, to Shirley Dykshoorn Three categories of records: open, exempt, and confidential.
<u>N.D.A.G. Letter</u>	May 18, 1992, to Wayne Solberg Records in possession of third party contractor.
<u>N.D.A.G. Letter</u>	August 13, 1991, to Howard Swanson Appropriate response to request for copies of open records.
<u>N.D.A.G. Letter</u>	July 17, 1991, to Steven Tomac Hours of access to open records and permitted security measures.
<u>N.D.A.G. Letter</u>	November 2, 1987, to Richard Olson Copies of open records.
<u>N.D.A.G. Letter</u>	July 11, 1985, to Richard Wilkes Rules of evidence and procedure do not apply to records requests.
<u>N.D.A.G. 82-23</u>	Mar 25, 1982, to Kent Conrad Time within which to respond to an open records request.
<u>N.D.A.G. 82-02</u>	January 20, 1982, to Herbert Engberg Hours of access.
<u>N.D.A.G. 79-106</u>	August 8, 1979, to William Gorder Meaning of "reasonable office hours".
<u>N.D.A.G. Letter</u>	February 23, 1978, to Russell Staiger How to respond to request for open records.
<u>N.D.A.G. Letter</u>	November 23, 1976, to Arthur Link Agreement by state agency to keep federal information confidential.
<u>N.D.A.G. 45-26</u>	August 13, 1945 Changing public records.

PERSONAL INFORMATION

See also PUBLIC EMPLOYEES

<u>N.D.A.G. 99-L-57</u>	July 6, 1999, to Carol Olson Department is not an "occupational or professional board".
<u>N.D.A.G. 98-F-11</u>	April 30, 1998, to Mark Blumer Resumes and job applications.
<u>N.D.A.G. 97-L-13</u>	January 29, 1997, to Gerald Sveen Notice of procedure to withhold personal driver information.

POSSESSION OF RECORDS

<u>N.D.A.G. 2013-O-18</u>	November 22, 2013, to North Dakota University Systems Once an open records request is made, the public entity has the duty to preserve the records it has in its possession at that time.
<u>N.D.A.G. 2012-O-09</u>	December 4, 2012, to North Dakota State University Usually, when a public entity is in possession of a record that is exempt, the entity possessing the records has discretion to disclose the records. However, N.D.C.C. § 32-12.2-11 requires the consent of Risk Management in order to disclose the exempt record.

[N.D.A.G. 2010-O-02](#)

February 26, 2010, to Pembina County Emergency Management Office
Each agency of a political subdivision is responsible only for records in its possession and not for records that are in the possession of another agency, even if they are part of the same political subdivision.

[N.D.A.G. 2008-O-15](#)

July 1, 2008, to Fargo Public School District and Fargo Park District
The records requested are in the possession of agents of the school and park districts, and relate to public business so are "records" subject to the law.

[N.D.A.G. 2005-O-16](#)

October 6, 2005, to Mayor of City of Oakes
Recording concerning public business and in possession of public entity subject to law.

[N.D.A.G. 2005-O-13](#)

August 10, 2005, to Grand Forks Police Department
Each agency of political subdivision only responsible for records in its possession.

[N.D.A.G. 2004-O-11](#)

May 17, 2004, to Halliday Public School District
Requested preliminary budget did not exist.

[N.D.A.G. 2004-O-01](#)

January 2, 2004, to Industrial Commission and Department of Commerce
Information on PACE loans not in possession of Department of Commerce.

[N.D.A.G. 2003-O-01](#)

January 30, 2003, to Minot Public School Board
Document returned to owner by public entity no longer a public record.

PRELIMINARY DRAFTS AND WORKING PAPERS

[N.D.A.G. 2009-O-01](#)

February 2, 2009, to North Dakota State University
A University could use either 44-04-18(9) or (10) depending on the circumstances in order to deny a preliminary draft or working paper.

[N.D.A.G. 2004-O-07](#)

April 6, 2004, to Halliday Public School
Source documents that are complete in themselves are not "working papers".

[N.D.A.G. 2001-O-04](#)

May 16, 2001, to Laurel Forsberg
"Right of first review" and "work in progress".

[N.D.A.G. 2001-O-02](#)

April 5, 2001, to Gary Thune
Applications submitted to personnel firm are source documents and not protected.

[N.D.A.G. 98-O-04](#)

March 3, 1998, to Norbert Sickler & Franklin Appledorn
Definition of "working papers" and "preliminary drafts"

[N.D.A.G. 98-O-03](#)

February 20, 1998, to Glenn Giese and Lester Brackel
Completed forms are not "working papers".

PROPRIETARY INFORMATION – SEE TRADE SECRETS

PUBLIC BUSINESS

<u>N.D.A.G. 2008-O-15</u>	July 1, 2008, to Fargo Public School District and Fargo Park District The Urban Plains Center relates to the governmental function of the school and park district and is thus a matter of public business.
<u>N.D.A.G. 2007-O-07</u>	April 24, 2007, to Coolin Township Recorded information of any kind received or prepared for use in connection with public business is a public record.
<u>N.D.A.G. 2005-O-16</u>	October 6, 2005, to Mayor of City of Oakes Record given to council at meeting by mayor with suggestions is public business.
<u>N.D.A.G. 2001-O-11</u>	September 13, 2001, to Greg Selbo Financial records of supported organization, audit reports, and personnel matters.
<u>N.D.A.G. 98-O-24</u>	November 23, 1998, to Garylle Stewart and Vern Bennett Public business of supported organization includes all financial records.
<u>N.D.A.G. 98-L-128</u>	September 2, 1998, to Jeff Rotering "Record" requires link or association to the entity's public business.
<u>N.D.A.G. 94-F-19</u>	July 1, 1994, to Jerome Kelsh Records of Labor Commissioner's telephone use and travel claims are open.
<u>N.D.A.G. Letter</u>	December 10, 1986, to William Patrie University research projects for private firm.

PUBLIC EMPLOYEES

<u>N.D.A.G. 2013-O-16</u>	November 8, 2013, to Jamestown/Stutsman County Development Corporation Although personnel records of public employees are generally open, there is an exception for employees for public entities that are subject to open records law <u>only</u> because they are supported by public funds. JSDC is supported by public funds and is an agent performing a governmental function so it cannot claim this exception for personnel records.
<u>N.D.A.G. 2002-L-55</u>	October 4, 2002, to Aaron Kauter Confidentiality of insurance plan participation and employer contribution to employee's insurance premiums.
<u>N.D.A.G. 98-F-11</u>	April 30, 1998, to Mark Blumer Resumes and job applications.
<u>N.D.A.G. 97-F-06</u>	September 10, 1997, to Sparb Collins Confidentiality of employee benefit records.
<u>N.D.A.G. 94-L-309</u>	November 9, 1994, to Sparb Collins Disclosure of confidential information by telephone to the employee.
<u>N.D.A.G. Letter</u>	May 18, 1992, to Wayne Solberg Confidentiality of records possessed by a third party contractor.
<u>N.D.A.G. Letter</u>	April 21, 1988, to R.L. Rayl Privacy of personnel file.

N.D.A.G. Letter	January 11, 1988, to Alan Person Ownership of PERS records in possession of group health insurance provider.
N.D.A.G. Letter	March 17, 1987, to Alan Person Medical records of claims administrator are the property of PERS.
N.D.A.G. 85-03	January 22, 1985, to John Richardson Private investigator's report on a faculty member.
N.D.A.G. 81-05	February 3, 1981, to F.C. Rohrich Application for city police officer.

PUBLIC ENTITY

N.D.A.G. 2013-O-19	December 23, 2013, to NDSU Research Park Ventures, LLC A "public entity" includes entities that are created or recognized by state statute, or by an action of a political subdivision, to exercise public authority or perform a governmental function.
N.D.A.G. 2013-O-10	June 25, 2013, to North Dakota University System Foundation Foundation is supported by and expends public funds on behalf of NDUS. Foundation records relate to the public business of NDUS. Foundation is therefore a public entity.
N.D.A.G. 2011-O-10	August 10, 2011, to Cass County Historical Society Cass County Historical Society is a public entity because it is supported by and expends public funds, it is recognized by state law as a county historical society, and it promotes historical work including historical preservation, which is a governmental function.
N.D.A.G. 2011-O-09	June 29, 2011, to Bank of North Dakota Industrial Commission is a governing body of the Bank of North Dakota and a public entity subject to open records law.
N.D.A.G. 2010-O-02	February 26, 2010, to Pembina County Emergency Management Office County emergency services office is public entity.
N.D.A.G. 2006-O-08	May 4, 2006, to North Dakota Stockmen's Association An entity that acts as an agent of the state, performs a governmental function and receives an appropriation is a public entity.
N.D.A.G. 2006-O-03	February 14, 2006, to Red River Valley Fair Association Fair Association.
N.D.A.G. 2004-L-25	April 1, 2004, to Sen. Ray Holmberg Barnes & Noble public entity operating bookstore as agent of UND.
N.D.A.G. 2003-O-10	September 4, 2003, to Tri-County Intervention, Inc. Nonprofit receives money for its general support from state funds.
N.D.A.G. 2003-O-08	July 22, 2003, to Dakota Center for Independent Living Nonprofit recognized by state law to perform governmental function.
N.D.A.G. 2003-O-02	February 21, 2003, to James River Senior Citizen's Center Senior citizen's center is a public entity.
N.D.A.G. 2003-O-01	January 30, 2003, to Minot Public School Board Contractor making energy conservation improvements is not a public entity.

<u>N.D.A.G. 2002-O-09</u>	September 17, 2002, to Van de Streek, Boughey, and Lee Minot Area Chamber of Commerce Task Force is a public entity.
<u>N.D.A.G. 2002-L-15</u>	February 28, 2002, to Kermit Lidstrom Teachers' representative organization.
<u>N.D.A.G. 2001-O-11</u>	September 13, 2001, to Greg Selbo Economic development corporation is agent of public entity – nine factors.
<u>N.D.A.G. 2001-O-10</u>	September 7, 2001, to Lamont and Van de Streek Economic development corporation is agent of public entity.
<u>N.D.A.G. 2001-O-04</u>	May 16, 2001, to Laurel Forsberg Advertising firm under contract.
<u>N.D.A.G. 99-O-02</u>	April 5, 1999, to Steve Spilde Government self-insurance pool.
<u>N.D.A.G. 98-O-04</u>	March 3, 1998, to Norbert Sickler and Franklin Appledorn Joint enterprise of several counties.
<u>N.D.A.G. Letter</u>	August 2, 1991, to Ken Solberg Government self-insurance pool.
<u>N.D.A.G. Letter</u>	November 20, 1987, to Lawrence DuBois Entities created by governmental process are public entities.
<u>N.D.A.G. Letter</u>	February 23, 1978, to Russell Staiger State planning division is a public entity.

PUBLIC SERVICE COMMISSION

<u>N.D.A.G. 67-173</u>	May 10, 1967, to Ben Wolf The PSC is subject to N.D.C.C. § 44-04-18.
--	---

REASONABLE FEE – SEE FEES FOR ACCESS AND COPIES

RECORD, DEFINED

<u>N.D.A.G. 2009-O-08</u>	June 15, 2009, to University of North Dakota Alumni Association and University of North Dakota Foundation Public records in the possession of an agent of a public entity must be disclosed unless they are exempt or confidential.
<u>N.D.A.G. 2008-O-07</u>	March 20, 2008, to Workforce Safety and Insurance E-mails that relate to public business kept on private computers are subject to the open records law.
<u>N.D.A.G. 2007-O-07</u>	April 24, 2007, to Coolin Township A record does not include unrecorded thought processes or mental impressions.
<u>N.D.A.G. 2004-O-23</u>	October 27, 2004, to Stark County Marriage records in county recorder's office.
<u>N.D.A.G. 2003-O-04</u>	February 25, 2003, to City of Fargo E-mails contained on a computer's electronic backup system are records in the possession of a public entity.

<u>N.D.A.G. 2002-L-41</u>	July 12, 2002, to John Warcup City's real property appraisal.
<u>N.D.A.G. 98-L-128</u>	September 2, 1998, to Jeff Rotering Link or association between record and entity's public business.
<u>N.D.A.G. 98-L-73</u>	June 8, 1998, to Jim Heck Ownership not required.
<u>N.D.A.G. 98-F-11</u>	April 30, 1998, to Mark Blumer Resumes and job applications.
<u>N.D.A.G. 97-F-06</u>	September 10, 1997, to Sparb Collins "Record" means each item of recorded information.
<u>N.D.A.G. 94-L-103</u>	April 14, 1994, to Wayne Hokenson City checkbook is an open record (but see <u>N.D.A.G. 2000-L-107</u> June 28, 2000, to Lisa Gibbens).
<u>N.D.A.G. 94-L-90</u>	April 4, 1994, to Jim Yockim Settlement agreement with county official.
<u>N.D.A.G. Letter</u>	September 9, 1992, to Lonnie Olson Videotape of person arrested for DUI is a record.
<u>N.D.A.G. Letter</u>	October 8, 1991, to Charlie Whitman Open records law applies to computer records.
<u>N.D.A.G. Letter</u>	March 19, 1990, to Janet Wentz Open records law does not apply to unwritten mental or thought processes.
<u>N.D.A.G. Letter</u>	April 21, 1988, to R.L. Rayl A copy of pre-termination letter to an employee is a record.
<u>N.D.A.G. Letter</u>	March 14, 1985, to Rick Bock Definition of "record" under N.D.C.C. ch. 54-46 does not apply to the open records law.
<u>N.D.A.G. 85-03</u>	January 22, 1985, to John Richardson "Record" includes private investigator's report on a faculty member.
<u>N.D.A.G. 62-118</u>	January 12, 1962 "Record" does not include every scrap of material in possession of a public official.
<u>N.D.A.G. 58-148</u>	June 4, 1958 "Record" includes official documents, reports, and day-to-day correspondence.

RECORD RETENTION

<u>N.D.A.G. 2003-O-04</u>	February 25, 2003, to City of Fargo Once an e-mail is deleted from a computer's electronic backup system, it is no longer in the possession of the public entity.
<u>N.D.A.G. 74-348</u>	December 4, 1974, to Ben Meier Microfilming of state records.
<u>N.D.A.G. 73-352</u>	June 21, 1973, to Ben Meier Transferring or loaning of records to a university.

[N.D.A.G. 72-343](#)

December 1, 1972, to William Guy
Disposal of records of Governor's office.

[N.D.A.G. 61-171](#)

October 3, 1961
Final decision on retention rests with Secretary of State as State
Records Administrator.

SCHOOLS

[N.D.A.G. 2013-O-08](#)

May 24, 2013, to North Dakota State University
Student discipline records are confidential under FERPA and can only
be released if personally identifiable information can be properly
redacted. FERPA does not allow disclosure of redacted records if the
record could still be traced to individual students upon release. The
educational institute must analyze whether records can be redacted to
such an extent that the release would not violate FERPA.

[N.D.A.G. 2005-O-09](#)

May 27, 2005, to Twin Buttes Public School
Request for records not required to be in writing.

[N.D.A.G. 2004-O-11](#)

May 17, 2004, to Halliday Public School
Request for preliminary budget that did not exist.

[N.D.A.G. 2004-O-07](#)

April 6, 2004, to Halliday Public School
Must make diligent search for records and disclose all relevant to
request.

[N.D.A.G. 2003-O-01](#)

January 30, 2003, to Minot Public School Board
Contractor making energy conservation improvements is not a public
entity of the school district.

[N.D.A.G. 2002-O-05](#)

April 1, 2002, to Fred Strege
Administrative investigation files.

[N.D.A.G. 2002-L-19](#)

April 1, 2002, to Kenneth Dalstad
Release of education records regarding tobacco use by minor.

[N.D.A.G. 2000-O-06](#)

May 5, 2000, to Tom Irgens
Letter based on bus driver's personal observations as a parent is not a
FERPA record.

[N.D.A.G. 2000-O-04](#)

March 15, 2000, to Larry Geggman
Non-academic records in student's permanent file.

[N.D.A.G. 98-L-51](#)

April 24, 1998, to Gary Gronberg
Teacher journals.

[N.D.A.G. 95-L-181](#)

July 31, 1995, to Larry Quast
School access to juvenile records.

[N.D.A.G. 94-L-278.](#)

October 17, 1994, to Jeff Rotering
Assistance by school officials.

[N.D.A.G. Letter](#)

November 4, 1991, to Wayne Sanstead
Disclosure of communications made during school counseling session.

[N.D.A.G. Letter](#)

March 13, 1990, to Douglas Manbeck
Posting of deficiency list under FERPA.

[N.D.A.G. Letter](#)

January 26, 1990, to Gary Knell
Student survey results.

N.D.A.G. Letter	June 6, 1986, to Wayne Sanstead Library records.
N.D.A.G. Letter	June 5, 1986, to Emil Riehl Log book of absentee ballots.
N.D.A.G. 84-37	November 14, 1984, to Lee Christofferson Interview of child at school regarding report of abuse or neglect.
N.D.A.G. 81-130	December 7, 1981, to Jan Dykshoorn Student directory information.

SECRETARY OF STATE

N.D.A.G. Letter	December 18, 1992, to Rosellen Sand Financial information in reports filed with Secretary of State.
N.D.A.G. 74-606	April 8, 1974, to Ben Meier Disposition of UCC financing statements.
N.D.A.G. 72-340	October 11, 1972, to Martin Gronvold Records of conveyance of property by the State.
N.D.A.G. 62-46	May 4, 1962 Annual corporate reports.
N.D.A.G. 57-148	August 22, 1957 Search fees.
N.D.A.G. 56-139	August 13, 1956 Review of document by Secretary of State.

TAX RECORDS

N.D.A.G. 2003-O-11	September 4, 2003, to State Tax Commissioner Names of companies contracted with North Dakota under Streamlined Sales Tax Project confidential.
N.D.A.G. 71-408	November 22, 1971, to Byron Dorgan Privacy of income tax returns.
N.D.A.G. 68-301	February 6, 1968, to Edwin Sjaastad Preservation of tax records.
N.D.A.G. 66-370	May 25, 1966, to Edwin Sjaastad Privacy of tax returns.
N.D.A.G. 64-404	July 31, 1964, to Lloyd Omdahl Disclosure of a list of taxpayers.
N.D.A.G. 58-149	March 21, 1958 Disclosure of whether a person has filed a return.

TOXICOLOGIST

N.D.A.G. 73-488	November 28, 1973, to N.G.S. Rao Disclosure of deceased person's blood alcohol tests.
N.D.A.G. 67-129	April 13, 1967, to Richard Prouty Confidentiality of test results of blood specimens.

TRADE SECRETS

including economic development records, proprietary, commercial, and financial information

[N.D.A.G. 2014-O-02](#)

February 3, 2014, to North Dakota Mill and Elevator Association
North Dakota Mill and Elevator Association's customer information, including the customer list and transaction information, was confidential "commercial information" because disclosure of the requested information would cause substantial competitive injury.

[N.D.A.G. 2011-O-09](#)

June 29, 2011, to Bank of North Dakota
Bank of North Dakota is a financial institution that is subject to statutory and federal law that requires it keep the "commercial or financial information of a customer" confidential. Industrial Commission, as governing body to BND, is bound by confidential requirements of same law with the exception of certain loan information that is specifically authorized to be released by the Industrial Commission under statute.

[N.D.A.G. 2005-O-06](#)

May 11, 2005, to Napoleon Economic Dev. Corp.
Exempt economic development information may be redacted.

[N.D.A.G. 2004-L-25](#)

April 1, 2004, to Sen. Ray Holmberg
Booklist compiled by Barnes & Noble a trade secret.

[N.D.A.G. 2002-O-09](#)

September 17, 2002, to Van de Streek, Boughey, and Lee
Trade secrets and commercial information are of a privileged nature, competitive disadvantage if disclosed.

[N.D.A.G. 2002-O-08](#)

July 19, 2002, to David Sprynczynatyk
State Department of Transportation's contractor payroll reports - not commercial or financial information.

[N.D.A.G. 2001-O-11](#)

September 13, 2001, to Greg Selbo
Summary of exceptions for economic development corporation.

[N.D.A.G. 2000-L-107](#)

June 28, 2000, to Lisa Gibbens
Personal financial information.

[N.D.A.G. 2000-O-07](#)

June 26, 2000, to Tim Priebe
Economic development.

[N.D.A.G. 98-O-22](#)

October 16, 1998, to Roger Gress and Timothy Davies
Customer names.

[N.D.A.G. 98-L-77](#)

June 17, 1998, to Douglas Johansen
Competitive injury.

[N.D.A.G. 98-L-17](#)

March 2, 1998, to Carol Olson
Definitions of "commercial," "financial," and "of a privileged nature".

[N.D.A.G. 98-O-03](#)

February 20, 1998, to Glenn Giese and Lester Brackel
Previous public disclosure.

[N.D.A.G. 95-L-253](#)

November 8, 1995, to Bryan Dvirnak
North Dakota Development Fund records.

[N.D.A.G. 94-L-194](#)

August 1, 1994, to Shirley Dykshoorn
Discretion of administrator to disclose exempt records; meaning of "privileged and confidential" records.

N.D.A.G. 94-L-01	January 3, 1994, to Charles Isakson Two agencies possessing the same exempt records each has discretion to release.
N.D.A.G. 93-L-204	June 25, 1993, to Deborah Fohr Levchak Technology Transfer, Inc.
N.D.A.G. Letter	December 18, 1992, to Rosellen Sand Annual reports to Secretary of State.
N.D.A.G. Letter	December 10, 1986, to William Patrie University research projects for private firm.
N.D.A.G. 85-24	June 12, 1985, to Janet Elkin Trade secrets under N.D.C.C. ch. 47-25.1 may still be subject to the open records law.

TRANSPORTATION, DEPARTMENT OF

N.D.A.G. 2013-L-01	January 23, 2013, North Dakota Department of Transportation Motor vehicle accident records generated pursuant to statute are open records, including identifying, personal information, for the operators and owners of the vehicles involved in the accident. Only the portion of the report that provides the law enforcement officer's opinion as to fault or responsibility of the accident is confidential.
N.D.A.G. 2007-O-03	March 1, 2007, to North Dakota Department of Transportation The DOT may require a completed request form only for two specific types of records.
N.D.A.G. 2002-O-08	July 19, 2002, to David Sprynczynatyk Contractor payroll reports.
N.D.A.G. 98-F-13	May 12, 1998, to Johanna Zschomler Highway safety records.
N.D.A.G. 97-L-13	January 29, 1997, to Gerald Sveen Notice of procedure to withhold personal driver information.
N.D.A.G. 96-L-232	December 3, 1996, to J. Thomas Traynor Local copy of accident report (superseding N.D.A.G. 96-L-119 June 5, 1996, to J. Thomas Traynor).
N.D.A.G. 96-L-119	June 5, 1996, to J. Thomas Traynor Local copy of accident report (superseded by N.D.A.G. 96-L-232 December 3, 1996, to J. Thomas Traynor).
N.D.A.G. Letter	December 19, 1983, to Duane Liffbrig Agency may only charge its actual costs for releasing information in bulk.
N.D.A.G. 72-356	May 22, 1972, to Robert Brady Access to accident reports by Unsatisfied Judgment Fund.
N.D.A.G. 64-152	March 9, 1964 Access to highway department records.

UNREASONABLE DELAY

[N.D.A.G. 2013-O-17](#)

November 8, 2013, to City of Golvea

Three month delay was unreasonable. Being unfamiliar with a city employee's obligation under open records law does not excuse the lengthy delay.

[N.D.A.G. 2013-O-15](#)

September 5, 2013, to City of Lincoln - Lincoln Police Department

There are several factors that are considered when determining whether a delay in providing records was reasonable including the work load and other responsibilities of those who have access to the records and the need to consult with the entity's attorney as to whether the records are open.

[N.D.A.G. 2013-O-14](#)

August 28, 2013, to Griggs County Commission

An unreasonable delay in providing records requesting may occur even if the records are not in the entities possession and allegedly not subject to open record laws if this reasoning is not communicated to the requestor.

The time it takes to sort through multiple record requests from a requestor and the time it takes to draft minutes are factors to be considered when analyzing whether records were provided within a reasonable time.

[N.D.A.G. 2012-O-07](#)

August 2, 2012, to Dresden Township

In determining the reasonableness of a response, circumstances of a particular request are considered. Under most circumstances, one month delay in providing copies of requested records would be unreasonable, but in this situation and under the unique circumstances to a rural township, delay was reasonable.

[N.D.A.G. 2011-O-07](#)

May 26, 2011, to City of Dickinson's Human Relations Commission

Although law does not usually require an immediate response, the delay in providing records generally will be measured in a few hours or a few days rather than several days or weeks. A significant delay in responding to a request for records has been found reasonable in circumstances where the request was for a large number of records, where closed or confidential information had to be excised, or where other responsibilities of the public entity demanded immediate attention.

[N.D.A.G. 2010-O-04](#)

April 20, 2010, to North Dakota State University Research & Technology Park

Public entity must provide access or copies of records within a reasonable time, which need not always be immediate, but will depend on facts of given situation. A number of circumstances, including balancing other responsibilities of the public entity that demand immediate attention, could reasonably delay providing records in response to request.

[N.D.A.G. 2010-O-02](#)

February 26, 2010, to Pembina County Emergency Management Office

Even if a public entity does not have the requested records, it must explain to requestor that records do not exist or are not being provided within a "reasonable time." Reasonableness is based on volume and complexity of request and other circumstances or responsibilities that may demand entity's immediate attention. If crisis or workload of entity prevents it from immediately searching for records, entity should advise requester.

<u>N.D.A.G. 2009-O-07</u>	June 4, 2009, to Department of Human Services A record was not provided within a reasonable time.
<u>N.D.A.G. 2009-O-01</u>	February 2, 2009, to North Dakota State University It was not an unreasonable delay to withhold a draft lease until work was completed on it.
<u>N.D.A.G. 2008-O-20</u>	August 1, 2008, to Workforce Safety and Insurance A delay of 160 days from the date of the request was unreasonable.
<u>N.D.A.G. 2008-O-19</u>	July 15, 2008, to Foster County An estimate of one year to provide copies of 800 records is unreasonable.
<u>N.D.A.G. 2008-O-14</u>	June 24, 2008, to Dickinson State University The university did not unreasonably delay providing the records when the delay that occurred was due to the requester refusing to pay the statutorily allowed charges
<u>N.D.A.G. 2008-O-12</u>	June 23, 2008, to Round Prairie Township The township did not provide copies of minutes within a reasonable time when it took four months to tell the requester that the minutes could not be provided because they had been stolen.
<u>N.D.A.G. 2008-O-06</u>	March 14, 2008, to Cavalier Fire Department and Cavalier Rural Fire Department Delay of 23 days (16 working days) an unreasonable delay.
<u>N.D.A.G. 2007-O-12</u>	September 5, 2007, to Bismarck Park District The Bismarck Park District delayed its response to a record request because it believed the request was a directive from a member of a joint special committee and did not fall under the open records laws. Upon a second request one month later but marked "personal", the Park Board provided records within 3 days.
<u>N.D.A.G. 2007-O-11</u>	August 3, 2007, to City of Mandan It was an unreasonable delay not to explain for months that the requested record did not exist. Fear that a record may be misinterpreted is not a legitimate reason to delay providing a requested record.
<u>N.D.A.G. 2007-O-10</u>	June 26, 2007 to Kathryn City Council A copy of minutes must be provided even though the minutes are also published in the newspaper.
<u>N.D.A.G. 2007-O-06</u>	April 17, 2007, to Burleigh County Commission Two weeks to respond to a request for records is too long.
<u>N.D.A.G. 2006-O-15</u>	December 18, 2006, to Bismarck Parks and Recreation District An entity cannot delay responding to a request for records simply because the entity head is out of the office.
<u>N.D.A.G. 2006-O-08</u>	May 4, 2006, to North Dakota Stockmen's Association An entity seeking legal advice about a request for records still must respond in a timely manner.
<u>N.D.A.G. 2005-O-09</u>	May 27, 2005, to Twin Buttes Public School Delay of two and one half months unreasonable.
<u>N.D.A.G. 2005-O-05</u>	March 30, 2005, to NDSU Unreasonable delay when entity continuously tried to limit the request.

<u>N.D.A.G. 2005-O-01</u>	January 10, 2005, to City of Napoleon Unreasonable delay when city missed appointment to allow requestor access to records.
<u>N.D.A.G. 2004-O-20</u>	September 7, 2004, to City of Napoleon Unreasonable delay when requestor had to ask four times for access to records.
<u>N.D.A.G. 2004-O-07</u>	April 6, 2004, to Halliday Public School Delay of 12 days to send 6 records unreasonable.
<u>N.D.A.G. 2004-O-05</u>	February 17, 2004, to Grand Forks County Planning & Zoning Department Delay was not unreasonable when several factors were considered.
<u>N.D.A.G. 2003-O-21</u>	December 1, 2003, to Department of Human Services Five days to provide records not unreasonable.
<u>N.D.A.G. 2003-O-19</u>	November 12, 2003, to Northwood Park Board Delay of four months unreasonable.
<u>N.D.A.G. 2003-O-17</u>	October 31, 2003, to City of Grand Forks Couple of months to respond to a request is unreasonable.
<u>N.D.A.G. 2003-O-09</u>	August 27, 2003, to North Dakota Game & Fish Department Three months to provide records unreasonable.
<u>N.D.A.G. 2002-O-08</u>	July 19, 2002, to David Sprynczynatyk Delay of 37 days was unreasonable.
<u>N.D.A.G. 2002-O-06</u>	June 27, 2002, to Fabian Noack Delay of month and a half was unreasonable.
<u>N.D.A.G. 2002-O-03</u>	February 11, 2002, to Fabian Noack Delay of two months was unreasonable.
<u>N.D.A.G. 2001-O-12</u>	September 26, 2001, to Randall Sickler Delay when requester indicates he will pick up the requested records.
<u>N.D.A.G. 2001-O-04</u>	May 16, 2001, to Laurel Forsberg Delay to seek legal advice on disclosing records was unreasonable when requested records did not exist and legal advice was unnecessary.
<u>N.D.A.G. 2001-O-02</u>	April 5, 2001, to Gary Thune Delay of response until the next meeting of a governing body was unreasonable.
<u>N.D.A.G. 98-O-22</u>	October 16, 1998, to Roger Gress and Timothy Davies Length of delay.
<u>N.D.A.G. 98-O-20</u>	September 15, 1998, to Every and Mitzel Delay of month and a half was unreasonable.
<u>N.D.A.G. 98-O-19</u>	August 12, 1998, to Mullenberg and Noack Delay of more than two weeks for minutes was unreasonable.
<u>N.D.A.G. 98-O-04</u>	March 3, 1998, to Sickler and Appledorn Delay usually measured in a few days or a week.
<u>N.D.A.G. 98-O-03</u>	February 20, 1998, to Giese and Brackel Factors to consider.

[N.D.A.G. 97-O-01](#)

November 10, 1997, to Harvey and Burke
Immediate access; outside office hours.

VETERANS

[N.D.A.G. 81-08](#)

February 5, 1981, to Lloyd Zander
Records of the Department of Veterans' Affairs.

[N.D.A.G. 68-525](#)

November 6, 1968, to Richard Thomas
Discharge and separation papers.

[N.D.A.G. 50-199](#)

October 18, 1950
Free copies of public records.

[N.D.A.G. 49-196](#)

April 30, 1949
Free copy of discharge papers.

[N.D.A.G. 45-302](#)

December 18, 1945
Recording of discharge papers.

WORKERS COMPENSATION BUREAU

[N.D.A.G. 98-F-22](#)

June 23, 1998, to Lois Delmore
Administrative hearings.

[N.D.A.G. 96-L-16](#)

February 8, 1996, to Marv Mutzenberger
Certificate of premium payment and employer's report.

[N.D.A.G. 95-L-146](#)

June 21, 1995, to Marv Mutzenberger
List of employers implementing a risk management program.

[N.D.A.G. Letter](#)

September 10, 1992, to Helen Tracy
Information open to the public under N.D.C.C. § 65-05-325.

[N.D.A.G. 85-23](#)

June 12, 1985, to James Sperry
Information in minute record is confidential.

[N.D.A.G. 67-354](#)

August 23, 1967, to Agnes Geelan
Furnishing information to vocational rehabilitation agency.

[N.D.A.G. 66-502](#)

May 9, 1966, to E. Odin Sjaastad
Awards of benefits.

[N.D.A.G. 64-287](#)

June 8, 1964
Disclosure to tax commissioner.

[N.D.A.G. 62-280](#)

November 30, 1962
Release of medical information.

[N.D.A.G. 42-71](#)

September 4, 1942
Confidential correspondence.

WORKING PAPERS – SEE PRELIMINARY DRAFTS AND WORKING PAPERS